

HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court’s order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P.998 of 2003 (MS)

Mananand Bhatt versus State of another

Approved for reporting.

Date of decision: 1 October 2003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No.998 of 2003(MS)

Maha Nand Bhatt s/o Sri Shet Ram Bhatt

R/o Sukhidhang, Champawat

.....

Petitioner

Versus

1. Uttaranchal Siksha Evam Parisha Parishad
Ramnagar, District Nainital

2. Secretary, Uttaranchal Shiksha Evam Parisha
Parishad, Ram Nagar, District Nainital

3. Principal, G.I.C. Sukhidhang, District
Champawat

.... Respondents

Sri Ramji Srivastava, Advocate for the petitioner

Sri N.C. Gupta, Standing counsel for the respondents.

Dated: October 1, 2003

Hon'ble Rajesh Tandon J.

The present writ petition has been filed for a writ, order or direction in the nature of mandamus commanding the respondents for revaluation of answer of the petitioner's High School Examination 2003.

The petitioner has alleged that his son namely Jai Prakash appeared in the High School Examination in the year 2003 from Government Inter College Sukhdhang, Champawat. On 30.6.2003 result of High School Examination was declared by the respondents which was published in the news paper on 1.7.2003. The petitioner was shocked to see that he had been given only 7 marks in math first

paper and 14 marks in Math second paper out of 100 marks. As the result the petitioner's son was failed in the examination.

Heard the learned counsel for the parties.

So far as the revaluation of answer book is concerned the same is not permissible in view of the various authorities of the Apex Court and High Courts. The Apex Court in *Bhushan Uttam Khare vs. Dean B.J. Medical College*, 1992 (2) SCC 220: AIR 1992 SC 917, *Arun Desai vs. High Court of Bombay through Chief Justice*, reported in 1984 (Supp) SCC 372, in *Maharashtra State Board of Secondary and Higher Secondary Education vs. Paritosh Bhupesh Kumarasheth* AIR 1984 SC 1543 was held that evaluation of answer book is not permissible and the same does not attract the principle of nature justice.

Relying upon the aforesaid observations made by the Apex Court in Allahabad High Court also taken the same view in a case *Subhash Chand and others vs. State of U.P. and others* (2001)2 UPLBEC 1085 and *Mobeen Ahmad Ansari vs. State of U.P. and others* (1999) 1 UPLBEC 603

Rule 21 Chapter XII of U.P. Education Code, provides as under:

21. mu ifj{kkfFk;k dh mRrj i|Lrdk; t k e[; ijh{kk e| doy ,d fo”k; ml fo”k; d fy, fu/kkfjr 5 ifr’kr vidk l vf/kd l mRrh.k ugh g fcuk ‘kYd vFkok vkonu i= d lfujhf{kr dh tk;xhA vU; ijh{kkFkhi t k viuh mRrj iLrd lfujhf{kr djuk pgr g fufEufyf[kr fu;e d vu|kj dj l dr gA

d- dkb ijh{kkFkhi t k ifj”kn }jk lpkfyr ijh{kk e| ifo”V gv k g fo”k; d viuh vidk dh lfujh{kk }jk iu% tkp djku d fy, vkonu i= n l drk gA

[k- ,l leLr vkonu i=k d lkFk dk”k pkyku dh ,d ifrfyfi ;g fn[kkr g, 20 #i; ifr fo”k; dh nj l fu/kkfjr ‘kYd n fn;k x;k g] vo’; gkuh pkfg,A mRrj in’k l ckgj d lhku l vkonu i= Hktu oky ijh{kkfFk;k d

lEcU/k ei ;g ‘kYd lfpo d dk;kY; ei if”kr ikLVy vkmJ vFkok LVV cid
vkQ bfM;k dh bykgckn ‘kk[kk ij jf[kr cid MkQV }kjk Hk tk tkuk pkfg,
x- ,l leLr vkonu i= ijh{kkQy dh frfFk l rh l fnuk dh vof/k
d vUnj vo’; fn; tkuk pkfg,A

The aforesaid rule (Ka) contains the provisions regarding scrutiny iu% t k p of the answer books. The provision is self explanatory and the Board has power to scrutinise the answer books in accordance with Rule (ka) of Rule 21. The rule gives ample power to the Board to help and assist the students who are desirous of getting their answer books scrutinized.

There lies difference between scrutiny and revaluation. The provisions as referred above contains the provision of 1fujh{kk which can be termed as scrutiny of answer books and it may also be called as i|u%t k|p whereas revaluation has been defined in the Legal Glossary as i|ueY;k|du . Thus it is clear that only scrutiny i|u%t k|p of answer books is available to a student and there is no provision of valuing the answer books again.

Moreover, the petitioner is not an aggrieved person so as to file the present writ petition; therefore, writ petition under Article 226 of Constitution of India is not maintainable.

However, since the petitioner is not an aggrieved persons and he is seeking relief in respect of Jai Prakash Bhatt who has appeared in examination, this order will not preclude the student namely Jai Prakash to move for scrutiny in accordance with rule 21 of Education Manual as stated above. This order will also not preclude Sri Jai Prakash to file a fresh writ petition, if he is so advised.

Subject to aforesaid observations the writ petition is dismissed.

(Rajesh Tandon, J.)

01.10.2003

*Dhyani